

Notice of Allowability

Application No.

09/889,105

Applicant(s)

NESS ET AL.

Examiner

Brian P Mruk

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to June 3, 2004.
2. ☒ The allowed claim(s) is/are 1-4 and 6-21.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 6-3-04
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 20040713.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Brian P. Mruk
Brian P Mruk
Primary Examiner
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EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Paul Kokulis on July 13, 2004.

2. The application has been amended as follows:

IN THE CLAIMS:

Claim 17. In line 4, **after** "surfactant being selected", **insert** ---from the group consisting of---

REASONS FOR ALLOWANCE

3. The following is an examiner's statement of reasons for allowance:

Michael, U.S. Patent No. 4,961,871, discloses an abrasive cleanser with an encapsulated perfume comprising 0.1-10% by weight of a surfactant, such as anionic surfactants (see col. 6, lines 12-30 & col. 9, lines 25-28), 10-95% by weight of an abrasive (see col. 9, lines 29-30), 0-80% by weight of a detergency builder (see col. 6, lines 54-56 & col. 9, lines 31-32), 0.02-5% by weight of a perfume (see col. 2, lines 15-

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17 & col. 10, lines 1-4), and a water insoluble microcapsule comprising a hydrolyzed, crosslinked, polyanion gum, such as alginates, carrageenan, and carboxymethyl cellulose (see col. 4, lines 47-58, & col. 5, lines 31-32, and col. 10, lines 4-31).

However, patentee differs from applicant in that Michael requires the active materials to be encapsulated within a wall of an anionic gum material (see col. 2, lines 17-25 and col. 4, lines 40-61 of Michael, U.S. Patent No. 4,961,871), whereas the instant claims require the active materials to be encapsulated in an anionic gum matrix. Furthermore, the examiner notes that there is a fundamental difference between an encapsulation system wherein an active material is surrounded by a wall or barrier versus an encapsulation system wherein the active material is encapsulated in the matrix of a material, as defined by applicant on page 1, lines 11-14 of the instant specification.

Accordingly, the claims viewed as a whole would not have been obvious to one of ordinary skill in the art at the time of the invention after viewing the prior art of record.

4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Mruk whose telephone number is (571) 272-1321. The examiner can normally be reached on Monday-Thursday from 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

BPM

Brian Mruk
July 13, 2004

Brian P. Mruk

Brian P. Mruk
Primary Examiner
Tech Center 1700